

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208
)	
Connect America Fund – Alaska Plan)	WC Docket No. 16-271

COMMENTS OF ALASKA COMMUNICATIONS SYSTEMS

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Table of Contents

Executive Summary.....	ii
Background.....	1
Discussion.....	3
<i>Identification of Duplicative Support</i>	3
<i>Termination of Duplicative Support</i>	4
<i>Effect on ETC Obligations</i>	5
<i>Repurposing Support for Middle Mile in Unserved Areas of Alaska</i>	6
Conclusion.....	11

Executive Summary

The identical support rule has long been discredited for failing to create appropriate incentives for investment in unserved areas, and wasting valuable universal service resources. Competitive eligible telecommunications carriers (“CETCs”) serving remote areas in Alaska soon will be the only carriers continuing to receive support under this outmoded policy. Alaska Communications supports the proposal to discontinue duplicative support to multiple CETCs offering 4G LTE wireless voice and broadband services in Alaska. The Commission should cease such payments at the end of year five of the Alaska Plan. The support amounts thus recovered should be dedicated to the construction and operation of middle-mile facilities connecting remote areas of Alaska that lack effective access to affordable, high-speed broadband middle mile facilities as of the end of year five. Dedicating the support to this use will enable new fixed and mobile voice and broadband offerings in remote areas of Alaska, and improve the performance of existing services. For maximum efficiency, the support should be assigned to a single provider of non-duplicative, statewide middle-mile facilities that would be offered on a wholesale basis, at regulated rates, terms and conditions, for the benefit of all Alaska fixed and mobile service providers, and all of their customers. In the alternative, the Commission could assign the support to the wireless CETC affiliates of the rural local exchange carriers where the support was derived, but the Commission would need to require coordination in planning and operation to ensure that support is used where it is most needed, and avoid duplication of facilities on the same routes. With effective planning and oversight, these new middle-mile facilities could deliver measurable improvements to the quality, reliability, capacity, and price of services available in remote Alaska, stimulating further investment and innovation where it is most needed.

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COMMENTS OF ALASKA COMMUNICATIONS

Alaska Communications hereby responds to the Commission’s Further Notice of Proposed rulemaking in the above-captioned proceeding¹ to address the elimination of duplicative funding where more than one competitive eligible telecommunications carrier (“CETC”) is receiving high-cost support for the provision of 4G LTE wireless voice and broadband services in Alaska. The Commission should curtail duplicative support, and dedicate the amount to middle-mile construction for enabling and improving fixed and mobile voice and broadband services in remote areas of Alaska.

BACKGROUND

In the Order and Further NPRM, the Commission adopted a comprehensive new high-cost support program for fixed wireline voice and broadband services offered by rate-of-return local exchange carriers (“ROR LECs”) and for mobile wireless voice and broadband services offered by CETCs in high-cost areas of Alaska (the “Alaska Plan”). Under this plan, Alaska’s ROR LECs will be permitted, at their option, to retain support at the 2011 level (with certain adjustments), for a ten-year period, subject to conditions designed to promote the expansion and

¹ *Connect America Fund; Universal Service Reform – Mobility Fund; Connect America Fund – Alaska Plan*, WC Docket Nos. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 16-115 (rel. Aug. 31, 2016) (the “Order and Further NPRM”).

maintenance of broadband capabilities in the high-cost areas served by these carriers.²

Alternatively, the Alaska ROR LECs could elect support under the Commission's Alternative Connect America Model ("A-CAM") for a ten-year period.³

Alaska CETCs serving "remote" areas of the state will be permitted to retain support at 2014 levels in exchange for performance commitments yet to be determined.⁴ Alternatively, CETC support will be phased out over three years.⁵ For remote areas served by multiple subsidized CETCs offering 4G LTE, the Commission intends to terminate duplicative support at the end of five years and redistribute those amounts in some manner.⁶ Duplicative funding will be identified during the fifth year of the Alaska Plan term, and is expected to be eliminated during the second half of the term, beginning in year six.⁷ The Commission seeks comment on 'how best to eliminate duplicative funding consistent with our universal service goals.'⁸

Alaska Communications offers comments on the following questions raised in the Further NPRM:

- How should the commission identify the relevant amount of support attributable to any overlap area?⁹
- How should duplicative funding be eliminated for some or all CETCs in the affected area?¹⁰
- Should the Commission modify the performance obligations of carriers whose support is being eliminated?¹¹

² *Id.*

³ *Id.* ¶7.

⁴ *Id.* ¶72.

⁵ *Id.* ¶98.

⁶ *Id.* ¶93.

⁷ *Id.* ¶¶94, 107.

⁸ *Id.* ¶108.

⁹ *Id.* ¶109.

¹⁰ *Id.*

¹¹ *Id.* ¶111.

- Should these funds be redistributed to mobile service providers in other high-cost areas of Alaska?¹²

DISCUSSION

Alaska Communications has a great deal of experience with duplicative support in Alaska. Both as a wireline carrier and as a mobile wireless service provider, Alaska Communications was forced to compete with CETCs that received support for providing service in the areas they deemed profitable (rather than the entire incumbent LEC service area) at the same per-line levels received by the incumbent LEC (rather than based on their own costs). The Commission's "identical support" policy resulted in duplicative facilities being deployed in lower-cost, more densely-populated areas while the most remote areas of Alaska, and those with the highest costs, were largely ignored by competitors (except where the competitors could extract monopoly rents – in the middle mile sector). This policy, which has been in effect nearly two decades, skewed the marketplace and deterred innovation and investment in advanced infrastructure – infrastructure that is especially needed in the most remote parts of Alaska which are not connected to the rest of the state or the nation by the infrastructure Americans elsewhere would expect – roads, electricity, telecommunications lines. For these reasons, Alaska Communications supports the elimination of duplicative support as the product of a failed program, and urges the Commission not to engage in a lengthy phase-down process but to terminate duplicative support entirely at the end of the fifth year of the Alaska Plan.

Identification of Duplicative Support

For any study area where a CETC seeks support, it must file its "line count" with USAC. USAC therefore should be able to identify for the Commission all Alaska study areas served by

¹² *Id.* ¶110.

multiple CETCs receiving high-cost support. In the case of CETCs whose service areas partially overlap, the burden should be placed on each CETC to identify the line count corresponding to the overlapping and non-overlapping portions of its service footprint. Other carriers then should be permitted to challenge this showing, with the final allocation determined by the Commission (or the Bureau on delegated authority). This should be similar to the challenge process in which the Bureau provided public notice of “unserved” census blocks qualifying for CAF Phase II support for price cap carriers, and allowed competitors an opportunity to demonstrate that they actually provide qualifying voice and broadband in one or more of those census blocks.¹³

Termination of Duplicative Support

Duplicative CETC support, by definition, has been distributed to wireless CETCs based on the amount of support distributed (on a per-line or per-connection basis) to the incumbent LEC. The Commission decided in 2011 to eliminate the “identical support” rule and phase out such support over five years, reasoning that it did not create appropriate incentives for investment in unserved areas, the amounts of supporting bearing no relation to the costs of an efficient provider of mobile services.¹⁴ While the Commission may determine that support should be continued for the one wireless provider affiliated with the local rural wireline carrier (as discussed below) where the FCC determines that the support is necessary for the maintenance of at least one wireless service provider in that area, there can be no justification for continuing to support multiple wireless service providers in the same geographic footprint.

¹³ See *Wireline Competition Bureau Commences Connect America Phase II Challenge Process*, WC Docket Nos. 10-90, 14-93, Public Notice, 29 FCC Rcd 7986 (WCB 2014).

¹⁴ *Connect America Fund et al.*, WC Docket Nos. 10-90 *et al.*, 26 FCC Rcd 17663, ¶¶29,502 *et seq.* (2011).

The discredited and harmful policy of supporting multiple CETCs in the same geographic area should be terminated at the end of year five, with no additional notice or transition period. The CETCs already are on notice that duplicative support will be phased out – indeed, that was the logical conclusion to be drawn from the Commission’s 2011 Transformation Order and all subsequent reforms. In each decision, the Commission has emphasized its intent to eliminate *all* duplicative support and target all high-cost support to *unserved* locations.¹⁵ Therefore, the Commission should not entertain requests for a phase-out of duplicative support in years six through ten. The phase-out should occur at the end of year five, allowing carriers to prepare, if they have not already begun doing so.

Effect on ETC Obligations

It is appropriate to modify the performance obligations of all carriers whose support is being eliminated. Just as the Commission modified the Section 214(e) ETC obligations for price cap LECs serving areas no longer receiving high-cost support, but retained service continuance obligations under Section 214(a) of the Communications Act,¹⁶ so should CETCs losing support

¹⁵ E.g., *Connect America Fund et al.*, WC Docket Nos. 10-90 *et al.*, 26 FCC Rcd 17663, 17729 (2011) (“Transformation Order”) (directing the Wireline Competition Bureau to exclude from the offer of model-based CAF Phase II support all areas served by an unsubsidized competitor); *id.*, ¶¶513, 529 (phasing out CETC support over five years, with an extended phase-out for remote Alaska); *Connect America Fund et al.*, WC Docket Nos. 10-90 *et al.*, Report and Order, 29 FCC Rcd 15644, ¶73 (2014) (“December 2014 Order”) (“we will exclude from the offer of Phase II model-based support to price cap carriers any census block served by a subsidized facilities-based terrestrial competitor that offers fixed residential voice and broadband services meeting or exceeding 3 Mbps/768 kbps speed requirement”).

¹⁶ Forbearance from Section 214(e) of the Communications Act (but not service discontinuance authority under Section 214(a)) was granted in three types of census blocks: (1) census blocks determined by the model to be low-cost, (2) census blocks served by an unsubsidized competitor, and (3) census blocks where another ETC is receiving high-cost support to deploy modern networks capable of providing voice and broadband to fixed locations. December 2014 Order ¶51 (all price cap carriers electing model-based support); *Connect America Fund*, Order, FCC 16-143, ¶40 (rel. Oct. 31, 2016) (Alaska Communications, with an exception for partially-served census blocks where Alaska Communications identifies unserved locations to meet its CAF

in remote areas of Alaska be relieved from ETC obligations but not service continuance obligations under Section 214. Where the carrier in question loses support due to the presence of a competitor (or because the area is not deemed high-cost) it is logical to relieve that carrier of ETC obligations. While Alaska Communications believes that all carriers in these circumstances should also be relieved of Section 214(a) service continuance obligations, the Commission should not grant such relief to CETCs until it also grants such relief to the incumbent LECs.

Repurposing Support for Middle Mile in Unserved Areas of Alaska

For years six through ten, the amounts repurposed from the discontinuance of duplicative CETC support should be used to support the deployment of new, previously unfunded facilities — namely, middle mile facilities linking that ETC and other parts of Alaska. To be specific, the support recovered from eliminating duplicative CETC support should be repurposed for the expansion of middle-mile capability serving the rural incumbent LEC's service territory. Virtually all of the ATA members have noted at one time or another that the lack of adequate and affordable middle mile infrastructure is a factor limiting their ability to expand broadband availability under the Alaska Plan.¹⁷ The most critical need after basic support for the local

broadband deployment obligation).

¹⁷ ATA members themselves have indicated doubt about their ability to deploy broadband, even with the enhanced support under the Alaska Plan, due to their lack of adequate access to affordable broadband middle-mile facilities. *See, e.g.,* Letter from Dave Goggins, TelAlaska, Inc., to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90 (filed Dec. 2, 2016)(revising Mukluk Telephone Company, Inc. performance projections to the broadband capability it can provide of January 1, 2017 – that is, *no additional broadband build-out using Alaska Plan support* – due to absence of terrestrial middle-mile facilities); Letter from Stephen Merriam, Arctic Slope Telephone Ass'n Coop., to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90 (filed Nov.17, 2016) (ASTAC revising its performance projections under the Alaska Plan to what it can provide as of January 1, 2017 – that is, *no additional broadband build-out using Alaska Plan support* – unless and until broadband middle mile becomes available); Letter from Julie A. Veach, Counsel to General Communication, Inc., to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90 (filed June 22, 2016) (GCI committing to deliver the minimum required broadband speeds of 10/1 Mbps under the Alaska Plan *only* in areas already served by fiber

network (which the Alaska Plan provides) is expansion of middle mile facilities serving remote parts of Alaska.¹⁸ These facilities are essential for all service providers, whether fixed or mobile, existing or new providers, to deliver advanced services to remote parts of the state.

As demonstrated in prior phases of the Connect America Fund docket, Alaska is uniquely challenged by the lack of essential infrastructure connecting over a hundred “Bush” communities.¹⁹ While the Commission rejected Alaska Communications’ suggestion that CETCs be required to demonstrate that a minimum percentage of any support received under the Alaska plan would be devoted to middle-mile deployment in unserved areas,²⁰ the Commission is requiring CETCs accepting support under the Alaska Plan to identify in their performance plans the types of middle-mile facilities employed in their networks, and provide and update maps showing all middle-mile facilities they have deployed and that are used or will be used to support service in eligible areas.²¹ Further, CETCs that initially rely exclusively on satellite backhaul are required to document the commercial availability of new middle-mile capability in the areas where they offer supported service.²² The Commission has effectively acknowledged the middle mile gap, even if it has not yet developed a solution for this urgent problem.²³

backhaul); Letter from Christine O’Connor, ATA, to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90 (filed Nov. 19, 2016), Attachment (proposing Alaska Plan Performance Obligations conditioned upon availability and affordability of terrestrial middle-mile capability).

¹⁸ See, e.g., Letter from Jeffrey H. Smith, GVNW Consulting, Inc., to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90 (filed Sept. 24, 2016) (“GVNW Letter”) (following implementation of last-mile support through the Alaska Plan, middle mile is the next step).

¹⁹ See, e.g., Order and Further NPRM ¶74 (acknowledging “critical need in remote Alaska for new terrestrial middle-mile deployment”).

²⁰ Order and Further NPRM ¶82.

²¹ *Id.* ¶¶ 86, 102.

²² *Id.* ¶102.

²³ E.g., Order and Further NPRM, Dissenting Statement of Commissioner Mignon Clyburn.

Consistent with the Commission’s intention to target support where it is most urgently needed to facilitate the universal availability of modern networks to all residences, businesses and community anchor institutions,²⁴ the Commission should target all support made available by eliminating duplicative CETC support to narrowing the Alaska middle-mile gap. In the absence of additional support, dozens of Alaska communities – and their health care clinics, schools, government offices, and other anchor institutions – will remain unserved by modern, high-speed networks.²⁵ *With* such support, adequate and affordable middle-mile facilities will enable the deployment of advanced services to these isolated communities and their essential institutions. Moreover, with access to subsidized middle-mile infrastructure, end-users may see new offerings from not just one but multiple service providers able to link their fixed or mobile networks to high-speed infrastructure beyond the local community.²⁶

²⁴ *See, e.g.*, December 2014 Order ¶48 (finding that tailored service obligations for non-contiguous U.S. carriers will further this goal); Transformation Order ¶5 (“The universal service challenge of our time is to ensure that all Americans are served by networks that support high-speed Internet access – in addition to basic voice service – where they live, work, and travel”).

²⁵ In 2010, more than 150 rural and Bush communities in Alaska were dependent on satellite communications. *See* Heather E. Hudson, *Connecting Alaskans* (Univ. of Alaska Press 2015), at 240. *See also* Letter from Karen Brinkmann, Counsel to Alaska Communications, to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90, Attachment: “Closing the Middle Mile Gap in Alaska: A Plan for All Alaska” (filed Nov. 19, 2015) (“Alaska Middle Mile White Paper”). While some of those communities now are connected by terrestrial microwave, many parties have documented the inadequacy of existing terrestrial facilities serving the Bush. *E.g.*, Letter from Ralph Andersen, Bristol Bay Native Ass’n, to the Hon. Sen. Murkowski *et al.*, (filed June 20, 2016 in WC Docket No. 10-90) (FCC should direct a substantial amount of support to facilities linking Alaska’s off-road communities to urban Alaska); Letter from Angela Vanderpool, Chugachmiut, to the Hon. Sen. Murkowski *et al.*, (filed in WC Docket No. 10-90 June 2016) (existing satellite and terrestrial microwave middle-mile facilities provide inadequate speed and quality, at too great a price, for Bush community health clinics).

²⁶ The Commission has heard from many Alaskans that seek access not only to adequate facilities but to competitive alternatives, both as a check on prices and to bring additional services to the Bush. *E.g.*, Letter from Susan Edwards, Lake and Peninsula Borough, King Salmon, Alaska, to the Hon. Sen. Murkowski *et al.*, (filed May 2016 in WC Docket No. 10-90) (supporting FCC funding of middle-mile facilities to Bush Alaska, with appropriate regulation to ensure and accountability, and competition to promote lower prices and better service); Alaska

The phasing-out of duplicative CETC support could permit the Commission to recapture, in part, the “once in a generation” opportunity to serve the public interest that it declined to seize in the Alaska Plan Order.²⁷ While the amount of support that becomes available from the elimination of duplicative CETC support is not likely to be sufficient to completely bridge Alaska’s middle mile gap,²⁸ it would be a start and would likely serve as a catalyst for additional facilities deployment.

To ensure success, the Commission should expressly condition the use of this repurposed support on funding the deployment of new middle-mile facilities where they are not available today, to support fixed and mobile broadband services at speed, capacity, latency, and price meeting the Commission’s minimum requirements, according to the data the Commission will have gathered from participants in the Alaska Plan in the first five years.²⁹ Alaska Communications recommends that the support be targeted first to routes that lack any terrestrial

Middle Mile White Paper, *supra* (funding middle-mile deployment without sufficient regulation will stifle much-needed competition and innovation; conversely, permitting competitive access to affordable middle-mile facilities will drive down end-to-end prices and promote new service offerings).

²⁷ The Commission had the opportunity to include explicit middle-mile deployment requirements in the Alaska Plan, as proposed by Alaska Communications and supported by numerous other Alaska parties, but rejected this idea in favor of a less ambitious plan that could be characterized as a small carrier preservation policy. *See* Order and Further NPRM, Dissenting Statement of Commissioner Ajit Pai (opining that this opportunity to advance middle mile should not have been dismissed by the Commission).

²⁸ To deploy a middle-mile network sufficient to serve all locations state-wide, estimates range from \$650 million to \$2 billion over ten years. *E.g.*, Alaska Middle Mile White Paper, *supra*; GVNW Letter at 2.

²⁹ As noted above, CETCs accepting support under the Alaska Plan must identify in their performance plans the types of middle-mile facilities employed in their networks, and furnish maps showing all middle-mile facilities they have deployed and that are used or will be used to support service in eligible areas. Thus, the Commission will have detailed information on the availability (or lack thereof) of high-speed terrestrial middle-mile facilities. Notes 17-18, *supra*.

infrastructure, and second to routes that lack two competing providers of high-speed terrestrial service.

As for determining who receives the repurposed support in any given area, Alaska Communications has long advocated that a single entity be selected to plan, construct and operate such a middle-mile network for the benefit of all service providers and end-users in the state, but not compete on a retail basis (to avoid conflict of interest). Alaska state authorities would likely be willing partners with the FCC to establish such an “Alaska Broadband Development” entity for the benefit of the public.³⁰ Choosing a single entity would best ensure that support is used where it is most needed, without duplication of facilities or routes, maximizing the return on the public investment.

Alternatively, the Commission could award the recovered support to the wireless affiliate of the rural incumbent LEC serving the area associated with the support, on the condition that it undertake a defined broadband middle-mile build-out obligation on routes not already targeted for build-out under the Alaska Plan. Under this alternative, coordination would be necessary to ensure that individual decisions concerning broadband deployment collectively would produce an efficient and workable state-wide network. Moreover, the Commission would need to evaluate whether some wireless LEC affiliates would receive insufficient funds to actually achieve much expansion of new middle mile service in their areas. Thus, under either scenario, the Commission (ideally, working with state entities) must establish clear middle mile

³⁰ Recently, state representative David Guttenberg and tribal authority representatives met with FCC staff to discuss a bill that Guttenberg introduced this year in the Alaska Legislature, “An Act Creating the Broadband Development Corporation; and Establishing the Alaska Broadband Task Force.” *See* Letter from Elisabeth Ross to Marlene Dortch, FCC Secretary, WC Docket No. 10-90 (filed Nov. 18, 2016).

parameters in advance, approve build-out plans, and monitor the build-out to ensure efficient use of limited resources without duplication of facilities or gaps in coverage.

It is critical that the award of funding to any ETC or special-purpose entity be subject to clear conditions, with regular oversight and strict enforcement. At a minimum, these conditions should include identification of the facilities constructed, the services made available (including capacity, speed, latency and price), and the terms under which the provider will offer non-discriminatory access to the subsidized middle-mile capability at reasonable, non-discriminatory and affordable rates established by comparison to Alaska urban rates. Such conditions will not only prevent waste of limited resources, but also maximize the public benefit of the investment by ensuring that multiple competitors, both fixed and mobile service providers, whether existing or new market entrants, may reach end-users and deliver advanced services in remote, high-cost and extremely high-cost areas not adequately served by middle-mile connections today. Such conditions would deliver the added benefit of bringing down the prices of services to anchor institutions that depend on high-capacity middle-mile that is subsidized under other federal programs, particularly rural health care services and broadband to schools and libraries. Savings would be realized by the Rural Health Care and E-Rate Programs, and support for Alaska middle-mile facilities will be responsibly administered for the greatest public good.

CONCLUSION

It is time for an end to duplicative high-cost subsidies in areas served by multiple CETCs offering 4G LTE voice and broadband services. Duplicative support should be discontinued at the end of five years, and repurposed to middle-mile deployment and operation in remote Alaska, with oversight to ensure adequate, affordable, and non-discriminatory access. Using the support to provide backhaul capability to the Bush will benefit both wireline and wireless customers. In

fact, it is the *only* way to ensure that the public effectively enjoys the expected performance characteristics of 4G LTE service in those areas. Without adequate and affordable middle mile access, local broadband offerings (fixed and mobile) will be of no use for any but the most localized communication. With proper investment in middle mile, appropriately safeguarded, these funds can be leveraged to greatly improve the benefits to the public of broadband capability.

Respectfully submitted,



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